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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,844	02/02/2000	Patrick Knebel	10971393-1	6757

22879 7590 07/29/2004

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EXAMINER	
HUISMAN, DAVID J	

ART UNIT	PAPER NUMBER
2183	

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	09/496,844	KNEBEL ET AL.
	Examiner	Art Unit
	David J. Huisman	2183

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): see attached sheet.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☒ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attached sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *26-29*.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1, 3- 5, 7-15, 18-19, 21-22, and 25, under 35 U.S.C 103 as applied in the final rejection*.

   Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on *14 June 2004* is a)☒ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

RICHARD L. ELLIS
PRIMARY EXAMINER

From (3): Applicant's arguments in regards to the 35 U.S.C 102(f) rejection applied to each of the claims have been considered by the examiner and deemed persuasive. Consequently, the 35 U.S.C 102(f) rejections have been withdrawn by the examiner, thereby rendering claims 26-29 allowable over the prior art of record.

From (5): Applicant's attention is drawn to MPEP 715.09. The affidavits filed after final (received on 06/14/2004) were not submitted in response to a new grounds of rejection nor to a new requirement in the final office action. Accordingly, the affidavits could have been held to be untimely. However, in the interest of expediting prosecution, the following remarks are provided from a brief perusal of the submitted affidavits: The affidavits are ineffective for at least the reason that no evidence has been provided that Rohit Bhatia himself personally witnessed the testing and subsequent results. The information in paragraph seven may have been simply relayed from one of the inventors instead of Rohit Bhatia actually having personal knowledge of the test results. Furthermore, the affidavits are additionally ineffective because they fail to establish a nexus between the supplied RTL code and the asserted Intel Itanium (TM) processor. No evidence has been provided that the exact RTL code provided was indeed ever included in any Intel Itanium (TM) processor. "The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. FACTS, not conclusions, must be alleged." (MPEP 715.07).

Finally, applicant has argued on page 11 of the remarks in substance that:

> "It is also noted that Paper No. 12 further states that 'it is beneficial to require them to issue in parallel because they are both writing to the same register.' This statement of purported benefit, or anything similar, is not found in Nakajima and is simply without basis in Nakajima. Indeed, as noted above, Nakajima purports to teach overcoming the problems of output dependency, not any benefits of writing to the same register."
>
> Additionally, the motivation provided is faulty. For example, Paper No. 12 states it would have been obvious to modify Col based on Nakajima 'because the system would gain the advantage of increased execution speed when instructions can be issued in parallel, while still allowing instructions to not be issued in parallel when resource contlicts occur.' Nakajima does not teach increased execution speed; rather, as shown in FIG. 19, the parallel issue in FIGs. 12 actually reduces execution speed because lock signals must be issued to overcome the problem of output dependency."

These arguments, although considered, are not found to be persuasive because Nakajima does in fact teach increasing execution speed. See Fig.12(a)-(c) and the description of these figures in column 11, line 33, to column 12, line 14. Note that both the fmul and fadd instructions write to the same register (fr00). According to the figures and description, the fadd instruction follows the fmul instruction. Normally, when there is an output dependency such as this, the fadd would have to wait for the fmul to finish before it can finish. However, with Nakajim'a invention, both are able to be executed at the same time, but only the fadd will write to the register. By executing them at the same time, the system will not have to wait at all for the fmul instruction to finish, thereby increasing execution speed by the wait time.